

SENATE BILL REPORT

SB 5764

As of February 15, 2017

Title: An act relating to higher education records.

Brief Description: Concerning higher education records.

Sponsors: Senators Wellman, Hasegawa and Rolfes.

Brief History:

Committee Activity: Higher Education: 2/14/17.

Brief Summary of Bill

- Exempts survivor communications with, and records maintained by, campus-affiliated advocates from public record disclosure requirements, except in certain circumstances.

SENATE COMMITTEE ON HIGHER EDUCATION

Staff: Evan Klein (786-7483)

Background: Campus Sexual Violence Task Force. In 2015, the Legislature established a two-year Campus Sexual Violence Task Force (Task Force). The 14-member task force was tasked with:

- developing best practices to promote campus sexual violence awareness;
- reducing the occurrence of campus sexual violence;
- developing recommendations for improving institutional policies and procedures;
- developing recommendations for improving collaboration between institutions and law enforcement; and
- reporting to the Legislature on its goals and recommendations.

The Task Force found that under current law, it was unclear whether records created by campus-affiliated advocates are exempt from disclosure under Washington's Public Records Act. The Task Force recommended that records and communications that may contain personally identifiable information of a survivor be kept confidential, and be clearly exempted from disclosure under the Public Records Act.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Public Records Act. All agencies, including institutions of higher education, must make all records available for public inspection or copying, unless the records fall within a specific exemption. Communications with, and records maintained by victim advocates and crime victim advocates are provided exemptions from the Public Records Act. These provisions do not reference campus-affiliated advocates employed by, or volunteering for an institution of higher education, that are not affiliated with a community based advocacy organization.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): A survivor is any student faculty, staff, or administrator at a public institution of higher education that believes they were a victim of a sexual assault, dating or domestic violence, or stalking. A campus-affiliated advocate is a sexual assault, domestic violence, or victim advocate working for an institution of higher education.

Survivor Communications with, and records maintained by, campus-affiliated advocates are confidential. Records maintained by a campus-affiliated advocate are not subject to public inspection or copying, unless:

- the survivor consents;
- there is a clear, imminent risk of serious injury or death to someone involved;
- federal law requires inspection or copying; or
- a court mandates availability of the records.

Appropriation: None.

Fiscal Note: Requested on February 10, 2017.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This is an important part of the discussion around campus sexual violence. This is a first step in addressing the issues of sexual violence on campus. Victim advocates currently cannot take clear notes from meetings with their clients because they are afraid the records will be subpoenaed. If this bill passes, victims and victim advocates won't have to live in fear of their sensitive information being made public. Advocates provide many important services to students, and these advocates should be able to provide these services confidentially to students. Without a confidential outlet, survivors can find it difficult to speak about their assault to anyone. Students require the same confidentiality and trust that they share with a lawyer or doctor.

Persons Testifying: PRO: Senator Lisa Wellman, Prime Sponsor; Michael Scott, Associated Students of Central Washington University; Nora Selander, Legislative Liaison, Associated Students of Western Washington University; Benjamin Rowe, Associated Students of Eastern Washington University; Alexander Wirth, Associated Students of the University of Washington; Ky O'Dell, Student Lobbyist from The Evergreen State College.

Persons Signed In To Testify But Not Testifying: No one.